

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:20-cv-00404-FDW
3:14-cr-00266-FDW-1

| | | |
|-----------------------------------|---|--------------|
| STEPHON DEANGLEO CALDWELL, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| vs. |) | ORDER |
| |) | |
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Respondent. |) | |
| |) | |

THIS MATTER is before the Court on Petitioner's letter, which Petitioner states regards “[t]he courts [*sic*] July 24, 2020, ‘ORDER’ … as it relates to 28 U.S.C. § 2255(f)(1).” [Doc. 4].

On July 17, 2020, Petitioner filed a letter, which the Court construed as a Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255. [Doc. 1]. On July 24, 2020, the Court conducted an initial screening of the petition under the Rules Governing § 2255 Proceedings, Rule 4(b) 28 U.S.C.A. foll. § 2255, found that the petition had not been signed by Petitioner under penalty of perjury, Rule 2(b)(5), 28 U.S.C.A. foll. § 2255, and advised Petitioner that his motion may be untimely pursuant to 28 U.S.C. § 2255(f). [Doc. 2]. The Court ordered that, within twenty (20) days, Plaintiff was to complete the blank Section 2255 sent to Plaintiff by the Clerk, to sign it under penalty of perjury, and to explain why his petition should not be dismissed as untimely. The Court further ordered that “[i]f Petitioner does not submit such signed Motion to Vacate within 20 days from entry of this Order, the petition may be dismissed without prejudice and without further notice.” [Id.].

On August 10, 2020, Plaintiff filed a handwritten one-page letter, which purports to address the Court's July 24, 2020 initial screening Order. [Doc. 4]. In the letter, Plaintiff notes that he

“previously” submitted his original motion “under penalty of perjury” and now “signs under penalty of perjury.” [Id.]. Petitioner, however, failed to explain how his motion is timely and failed to complete the Section 2255 form that was sent to Petitioner by the Clerk at the direction of the Court. [See id.]. The Court will, therefore, dismiss Petitioner’s Section 2255 Motion to Vacate without prejudice for Plaintiff’s failure to comply with the Court’s Order.

IT IS, THEREFORE, ORDERED that:

1. Plaintiff’s Section 2255 Motion to Vacate [Doc. 1] is hereby **DISMISSED WITHOUT PREJUDICE.**
2. The Clerk is respectfully instructed to terminate this action.

Signed: August 19, 2020


Frank D. Whitney
United States District Judge